

wouldn't have to borrow. We wouldn't have to make some defense cuts that are going to have to come. We could maybe put more money into Medicare prevention and disease prevention rather than what we have done. There are all sorts of things we could do.

The point behind the report is that most Americans don't realize how we are subsidizing through tax credits the very wealthy in this country. I don't have any real problem with them taking the tax credits. We put it out there. The real question we ought to be asking is why are we doing all of this in the first place. Does the economy itself in a free market not allocate resources better than we can do? How many Chevy Volts have been sold this year? The answer is 5,000. So 5,000 times \$7,500 is what we paid in tax credits to have the Chevy Volt sold because everybody who bought it got a \$7,500 tax credit. If it is a viable product, then let people buy it. If it is not, they won't. Yet who are the people who bought most of the Chevy Volts? People making significantly more than the average American.

If we are going to play in the Tax Code, what we ought to do is play on a very level playing field. If we want to create incentives, then we ought to create incentives that actually will do something for the economy rather than benefit those who make the most money in the economy.

I would say what this spells is a case for us to totally reform our Tax Code. Most people don't realize this is one of the side effects. That is not to say there are not some good side effects. But the fact is when we are running \$1.3 trillion deficits, do we want to be subsidizing the rich and famous in this country with our programs? I would say no.

When Medicare Part B started, 50 percent of the cost of Medicare Part B was to be borne by the Medicare recipient. We are at 25 percent now. There was never any thought—and, remember, nobody ever paid anything for that. In other words, that is all borrowed money to do that. Nobody ever contributed into a Part B fund. They contributed into a Part A fund which, by the way, will be bankrupt in 4½ years. What about those on Part D? Nobody ever paid a penny, and we have \$13 trillion in unfunded liability in Part D. Why should the very wealthy get subsidized drugs in this country? Why should they get subsidized Part D? In other words, we ought to ask ourselves a question.

Think about Social Security. Why is Canada's Social Security system not in trouble? Because Canada looks at how much income a person is making every year, and at certain levels a person gets half of their Social Security because they obviously don't need it because their income is up there, and at a certain other level they get none of it. Why? Because it is based on a means-testing mechanism that says this program is designed to be an un-

derpinning for those who need it. We have gone completely the other way.

My point is we have all this discussion about what we should do. We are wringing our hands. The first thing to do is to fix the Tax Code and the best way to fix it is to say 3 months from now it is going away, and have Finance and Ways and Means Committee in the House come together with a new Tax Code that fixes all of this. Everybody in Washington says that can't be done. Nobody outside of Washington says it can't be done, but we say it can't be done. It can be done. It needs to be done.

If we want a healthy future, we need to reform our Tax Code to generate greater investment, greater job opportunity. We need to lower the rates, and we need to eliminate things such as these that don't truly help the economy, but help those who were smart enough to figure out how to play the game, who are the wealthiest in this country. I am proud of them. I want them to be more successful. But in these difficult times, we need to ask them to contribute more. We need to not have these kinds of programs in our Tax Code that actually subsidize those who need no subsidy.

With that, I yield the floor and note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BEGICH. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### EXECUTIVE SESSION

##### NOMINATION OF SHARON L. GLEASON TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ALASKA

##### NOMINATION OF YVONNE GONZALEZ ROGERS TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of Sharon L. Gleason, of Alaska, to be United States District Judge for the District of Alaska and Yvonne Gonzalez Rogers, of California, to be United States District Judge for the Northern District of California.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 1 hour for debate, equally divided in the usual form.

The Senator from Alaska.

Mr. BEGICH. Madam President, I am glad the Senate will confirm two more highly experienced Federal judges this morning. I wish to take a moment to speak in support of the nomination of one of Alaska's finest State judges to the Federal bench.

Today, the Senate will vote to confirm the nomination of Judge Sharon Gleason to be a judge for the U.S. District Court for the District of Alaska. I know Sharon quite well, and I recommended her to the President for this opening.

I can say without hesitation that she is one of Alaska's finest. She is smart, she is compassionate, well rounded, and possesses an ample supply of common sense.

Alaska's judicial candidates are rated by their peers, and Judge Gleason consistently receives among the highest marks possible. For these reasons, and many others, I hope all my Senate colleagues will join me in supporting her nomination.

Her confirmation will make Judge Gleason the first female judge appointed to the Federal bench in Alaska history. That is truly momentous for our State and long overdue.

I know many Alaskans back home—and 4 hours earlier—are watching these floor proceedings today because of the significance of this appointment.

Sharon was appointed to the Anchorage Superior Court in 2001 by Gov. Tony Knowles, who was my boss when he served as mayor of Anchorage. On the Superior Court, Judge Gleason has presided over a large variety of cases, including complex civil litigation, divorce and custody proceedings, child-in-need-of-aid proceedings, and criminal cases.

Judge Gleason now serves as the presiding judge of the Third Judicial District in Alaska. That position is responsible for overseeing 70 percent of the caseload of the entire State trial courts and includes 40 judges and 20 magistrates.

Her record as a judge has been excellent. She is widely praised for her judicial temperament, her fairness on the bench, and especially her pioneering work on behalf of families and children. For that work, she was awarded the prestigious Light of Hope award in Alaska.

Sharon is an active member of her community, serving on numerous legal committees. She also is a heck of a clarinet player, and she has been playing in the Anchorage Symphony Orchestra for more than 25 years.

Judge Gleason received the unanimous bipartisan support of every member of the Senate Judiciary Committee. The American Bar Association has rated her "unanimously well qualified," their highest possible rating for a Federal judge.

If confirmed, Judge Gleason will follow a long line of excellent Federal judges in Alaska. She will replace retiring Judge Jack Sedwick, who has served our State with distinction for nearly a decade on the Federal bench.

Judge Sharon Gleason is one of my State's finest legal minds, and I am confident she will continue to fairly and effectively serve Alaskans from the Federal bench.

I urge all my colleagues to support her nomination to the U.S. District Court.

I yield the floor and suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MURKOWSKI. Madam President, this is a big day for us in Alaska and in Alaska's legal history. The Senate is today considering the nomination of Sharon Gleason. Sharon is the first woman to be nominated for United States district court judge in Alaska. She is an outstanding nominee and I regard it as a privilege to speak in support of her nomination today.

Sharon Gleason is a native of Rochester, NY. She earned her bachelor's degree from Washington University in St. Louis. She received her law degree from the University of California-Davis. Upon graduation from Davis, Sharon was elected to the Order of the Coif, which is the national legal honor society. Following her graduation, she clerked for Edmond Burke, who was the chief justice of the Alaska Supreme Court.

This was the beginning of an exceptional legal career in the State of Alaska for Sharon Gleason. After 17 years in private practice, Sharon was selected to serve on the Alaska Superior Court for the Third Judicial District in Anchorage. She came to the bench in 2001. In 2009, Sharon was elevated to the role of presiding judge for the Third Judicial District. This is the judicial district that is the busiest of our four judicial districts in the State of Alaska.

I think it is important to take a moment here to explain how the process works in the State of Alaska for appointment as a judge. Sharon was selected, again, to serve on the Superior Court. All applicants for State judicial positions are vetted by the Alaska Judicial Council. There is a commission that is composed of attorneys and of public members, and the top candidates are recommended to the Governor for consideration and ultimate appointment. That merit process was created by the Alaska constitution, and it was intended to keep the politics out of the judicial selection process, and it is a process that many of us in the State of

Alaska are quite proud of. We think it is a very effective process and works well. Every candidate is formally evaluated on issues such as integrity, professional competence, fairness, judicial temperament, and suitability of experience.

As a member of the Alaska bar, I get the bar survey polls to evaluate the individuals as their names go forward, and you look through the categories to rate each candidate. I think if you were to ask any Alaska attorney about the rigor of this process, you would get the same answer, that it is a very effective process. The grading is tough, and those who are not up to the challenge do not slip through any cracks. The Governor may only appoint a candidate who has been recommended by the Alaska Judicial Council.

Once selected, a Superior Court judge must stand for periodic retention elections. The Alaska Judicial Council re-evaluates each judge standing for retention and then makes a recommendation to the voting public on whether that judge should be retained. Once again, the process is quite rigorous. The judicial council surveys attorneys, jurors, law enforcement, court employees, social workers, guardians ad litem, and court-appointed special advocates. The scores then are made public. So it is a very open process. It involves many, many within the Alaska legal community and is quite transparent.

Sharon Gleason last stood for retention in 2010, and she scored high on measures of legal ability, impartiality, integrity, temperament, and diligence. In her 2010 retention questionnaire, Judge Gleason stated this about her job:

The workload is particularly demanding . . . involving many long days and weekends. But I continue to love going to work just about every day . . . I strive to be the best judicial officer that I can be in every case that comes before me.

Those were the words of Judge Gleason. I think that is an excellent outlook for a member of our judiciary, and Alaskans clearly agreed. The Alaska Judicial Council recommended her retention and she was retained with nearly 61 percent of the vote.

As a product of the Alaska court system, Sharon Gleason has functioned with great distinction in a merit-based, nonpartisan, and nonpolitical environment. In advance of the vote we will hold here in the Senate in about a half hour, I took the opportunity to survey some judges who either worked with Sharon in Alaska or who have had the opportunity to work with her. One of them reported that Judge Gleason has presided over complex technical cases that lasted several weeks and required her to pour over thousands of pages of exhibits and transcripts. She has also presided over child custody cases, making sure that she understands the needs of each child and how to assist or require the parents to raise their children appropriately. She is at work late each night and at least one full week-

end day every week. She insists upon litigants being respectful of one another in litigation and during the hearings. She spends many hours evaluating herself to ensure that she is not only meeting her own standards about being fair to all sides but also behaves in a manner that leaves the parties to know she is being fair. She takes great pains to articulate to parties how she will run a hearing and why she is ruling as she does. She has tremendous control of her own demeanor so that she maintains control of proceedings. As a result, parties almost universally leave a hearing or a case feeling she has understood them and thought carefully about her decision. She acts with an appreciation that for the litigants involved the case before her is the most important thing in their lives at the time. She is, and I believe will continue to be, a superb judge.

Another judge said: Sharon's skills as a capable trial court judge and an excellent presiding judge are well known to Alaskans. She will be missed by her colleagues in the State court but she will make a fantastic addition to the Federal district court.

The American Bar Association has evaluated Judge Gleason as being "well qualified" for elevation to the U.S. district court. I think she will make an exemplary U.S. district court judge. I am proud to support this nomination, and I would encourage my colleagues to do the same.

Mr. GRASSLEY. Mr. President, today the Senate will confirm two more of President Obama's judicial nominees. If my colleagues feel like they have been spending a lot of time on the Senate floor voting on judicial nominees, I would tell them they have. In just a little over a month, we have confirmed 20 article III judicial nominees for lifetime appointments. In total, the Senate has confirmed 71 percent of the President's judicial nominees since he took office.

I would like to say a few words about the nominees.

First, Sharon Gleason is nominated to be United States District Judge for the District of Alaska. Judge Gleason received her bachelor of arts from Washington University in St. Louis in 1979 and her juris doctorate from the University of California, Davis, School of Law in 1983. She then served as a law clerk for Chief Justice Edmond Burke of the Alaska Supreme Court.

After her clerkship, Judge Gleason became an associate at the law firm Reese, Rice, and Volland in Anchorage, AK, where she worked on a variety of civil litigation. Judge Gleason became a partner in 1989 and remained at the firm until 1995 when she became a sole practitioner.

In 2001, Judge Gleason was appointed to the Anchorage Superior Court by then-Governor Tony Knowles. She was retained by voters in 2004 and again in 2010.

The American Bar Association Standing Committee on the Federal

Judiciary has rated Judge Gleason with a unanimous "Well Qualified" rating.

We will also be voting on Yvonne Gonzalez Rogers. She is nominated to be United States District Judge for the Northern District of California.

Judge Gonzalez Rogers earned her bachelor's degree from Princeton University in 1987 and her juris doctorate from the University of Texas, Austin School of Law in 1991.

She began her legal career with Cooley LLP and served as a member of the General Business Litigation practice and the Real Estate Litigation practice. She focused on large and complex civil litigation matters, including real estate and technology-related litigation.

In addition to her legal practice, Judge Gonzalez Rogers also chaired the Judiciary Committee for the northern California Hispanic National Bar Association and the San Francisco La Raza Lawyers Association. In these roles, she investigated candidates for the judiciary and recommended endorsement where appropriate.

Governor Arnold Schwarzenegger appointed Judge Gonzalez Rogers as a superior court judge for the State of California on July 25, 2008. She was re-elected without opposition in 2010.

The American Bar Association Standing Committee on the Federal Judiciary has rated Judge Gonzalez Rogers with a unanimous "Qualified" rating.

Mrs. FEINSTEIN. Mr. President, I am very pleased that we are considering the historic nomination of Judge Yvonne Gonzalez Rogers to the United States District Court for the Northern District of California.

When she is confirmed, she will be the first Latina district judge in the Northern District of California.

Judge Gonzalez Rogers first came to my attention through a bipartisan Judicial Advisory Committee that I have set up in California. This committee recommended her to me, and I interviewed her personally.

Judge Gonzalez Rogers is a tested judge with a proven track record of success and dedication to the northern California community. It was my privilege to recommend her nomination to President Obama.

She lives in Piedmont, CA. She and her husband have three children—Christopher, Maria, and Joshua.

Judge Gonzalez Rogers was born in Houston, TX. Her parents were each the oldest of nine siblings and grew up in south Texas. Spanish was their first language.

Her father served in the U.S. Army and went to college with assistance from the G.I. Bill.

Out of a large extended family, she was one of only three family members to attend college.

She earned her undergraduate degree from Princeton University, where she excelled, graduating cum laude in 1987.

During school breaks and weekends, she spent her time cleaning houses and cutting grass to help pay her tuition.

She attended law school at the University of California at Berkeley, ultimately earning her law degree from the University of Texas at Austin.

She began the practice of law at the prestigious San Francisco firm Cooley LLP. At that time, no Latina woman had been elected into the partnership of any major San Francisco law firm.

In her own words, Judge Gonzalez Rogers "worked hard to break that mold by becoming an excellent attorney worthy of invitation to the partnership." She was elevated to Cooley's partnership in 1998.

In her application to my committee, she described her story as the "American dream," and she said that she "would be honored to spend the remainder of [her] professional career serving the country that has given [her] so much."

She currently serves as an Alameda County superior court judge. Judge Gonzalez Rogers is an impressive jurist—smart, personable, and with mainstream views of the law—who I believe would serve very well as a Federal district judge.

On the Superior Court, she has presided over both a criminal and civil calendar. She currently oversees a docket of more than 500 civil cases.

She has also been active in the community. She was appointed by the presiding judge to serve as foreperson of the Alameda County Civil Grand Jury—an active investigative body that examines complaints about the administration of county government.

She served as cochair of Citizens for Piedmont Schools, leading a campaign to pass ballot measures for the benefit of the local school systems. Each measure passed with over 80 percent of the vote.

Her dedication to her community is admirable, as is her dedication to the law.

As she said in her own words, "I have a deep respect for judicial leadership, for judges who manage the process and their courtrooms well, apply the law fairly, and explain their reasoning clearly. Reasonable people can disagree. We need judges who will listen and then decide. I hope to have a long judicial career to live up to this standard."

I have no doubt she will live up to that standard, and I strongly believe she will be an outstanding Federal judge.

The Judiciary Committee reported her nomination by voice vote in September, and I urge my colleagues to vote to confirm her nomination today.

Mrs. BOXER. Mr. President, I want to express my strong support for California Superior Court Judge Yvonne Gonzalez Rogers as the Senate prepares to vote on her confirmation to the U.S. District Court for the Central District of California. Judge Gonzalez Rogers was recommended to the President by my colleague, Senator FEINSTEIN, and will be a great addition to the Federal bench.

Judge Gonzalez Rogers has been a skilled lawyer and judge during her career. After graduating from the University of Texas School of Law, she practiced complex civil litigation at Cooley Godward in San Francisco, becoming a partner at the firm in 1999. In 2008, she was appointed by then-Governor Arnold Schwarzenegger to the Alameda County Superior Court, where she currently serves. She has also served as regional president for the Hispanic National Bar Association.

I congratulate Judge Gonzalez Rogers and her family on this important day and urge my colleagues in the Senate to join in voting to confirm this highly qualified nominee to the Federal bench.

With that, Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WEBB). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, today the Senate is going to finally consider two of President Obama's highly qualified nominees to fill Federal district court vacancies in Alaska and the Northern District of California. They were unanimously voted out by the Judiciary Committee 2 months ago. I am sorry it has taken so long because of objections on the other side, but I am glad they now will be considered.

Both Sharon Gleason and Yvonne Gonzalez Rogers have the strong support of their home State Senators and both were reported by the Judiciary Committee unanimously over 2 months ago. I thank the majority leader for securing votes on their nominations. I am disappointed that the Senate Republican leadership would not agree to a vote on the other 23 judicial nominees waiting for final Senate action. These delays are inexcusable and damaging.

All 25 nominees on the Senate calendar are qualified and have the support of their home State Senators, Republican and Democratic. Twenty-one of these judicial nominations were unanimously approved by the Judiciary Committee. Senate Democrats are prepared to have votes on all these important nominations. I know of no good reason why the Republican leadership is refusing to proceed on the 23 other judicial nominations that they have stalled before the Senate.

The Senate Republican leadership has, again, insisted that the Senate skip over two circuit court nominees who would fill judicial emergency vacancies on the Second and Ninth Circuit. They, too, were reported unanimously and have the support of their home State Senators. There is no good

reason that the Senate is being prevented from confirming the nominations of Judge Chris Droney of Connecticut to fill a judicial emergency vacancy on the Second Circuit and Morgan Christen of Alaska to fill a judicial emergency vacancy on the Ninth Circuit.

Senator GRASSLEY and I have worked together to ensure that each of these 25 nominations was fully considered by the Judiciary Committee after a thorough, fair process, including completing our extensive questionnaire and questioning at a hearing. This White House has worked with the home State Senators, Republicans and Democrats, and each of the judicial nominees being delayed from a Senate vote is supported by both home State Senators. The FBI has conducted a thorough background review of each nominee. The American Bar Association's Standing Committee on the Federal Judiciary has conducted a peer review of their professional qualifications. When the nominations are then reported unanimously by the Judiciary Committee, there is no reason for months and months of further delay before they can start serving the American people.

With the vacancy rate on Federal courts throughout the country near 10 percent, the delay in taking up and confirming these consensus judicial nominees is damaging. Last week, *The Wall Street Journal* reported on the impact of these vacancies at a time when the criminal docket on Federal district courts is growing. The article states:

Exacerbating the problem are vacancies on the Federal bench. Despite the surge in case loads, the number of authorized federal judgeships has risen just 4% since 1990. Of the 677 district court judgeships currently authorized, about 9.5% are vacant. ("Criminal Case Glut Impedes Civil Suits")

As a result, according to Judge McCuskey of the Central District of Illinois, "civil litigation has ground to a halt." These delays affect both individuals and businesses. The article highlights that over 2,000 citizens of Merced, California who filed suit in 2007 over toxic chemical contamination stemming from a 2006 flood are still awaiting resolution, and only one civil trial has been held in the matter. In the article, Senior Judge W. Royal Furgeson of the Northern District of Texas is quoted warning that if decisions on contracts, mergers and intellectual-property rights "can't be reached through quick and prompt justice, things unravel for business."

Mr. President, I ask unanimous consent to have printed in the *RECORD* a copy of this article at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. A report published last month by the Administrative Office of the U.S. Courts demonstrates the extent of these delays in Federal court.

Across the country, there are over 15,000 civil cases that have been pending for more than three years without resolution. The Administrative Office's data show that many of the circuits with the highest number of vacant district judgeships also have the highest backlog of pending cases. The Ninth Circuit has over 1,700 civil cases that have been pending for more than three years. There are currently 14 district judgeships vacant in that circuit, including five vacancies that the Administrative Office has classified as judicial emergency vacancies. The Fifth Circuit has over 1,300 civil cases that have been pending for more than three years. There are eight district judgeships vacant in that circuit, six of which are emergency vacancies.

Our courts need qualified Federal judges, not vacancies, if they are to reduce the excessive wait times that burden litigants seeking their day in court. While 3 years may be necessary for some of the most complex business disputes, it is unacceptable for hardworking Americans who are seeking their day in court. When an injured plaintiff sues to help cover the cost of his or her medical expenses, that plaintiff should not have to wait for 3 years before a judge rules on his or her case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute.

With almost one in 10 Federal judgeships currently vacant, the Senate must come together to address the serious judicial vacancies crisis on Federal courts around the country. Bill Robinson, the president of the American Bar Association, warned recently in a letter to Senate leaders that excessive vacancies and high caseloads, "deprive . . . our federal courts of the capacity to deliver timely justice in civil matters and has real consequences for the financial well-being of businesses and for individual litigants whose lives are put on hold pending resolution of their disputes." Justice Scalia, Justice Kennedy and Chief Justice Roberts have also warned of the serious problems created by persistent judicial vacancies. This is not a partisan issue, but an issue affecting hardworking Americans who are denied justice when their cases are delayed by overburdened courts.

During President Bush's first 4 years, the Senate confirmed a total of 205 Federal circuit and district court judges. As of today, we would need another 89 confirmations over the next 12 months to match that total. That means a faster confirmation rate for the next 12 months than in any 12 months of the Obama administration to date. That would require Senate Republicans to abandon their delaying tactics. I hope they will. This is an area where the Senate must come together to address the serious judicial vacancies crisis on Federal courts around the country that has persisted for well over 2 years. We can and must

do better for the millions of Americans being made to suffer by these unnecessary Senate delays.

More than half of all Americans—almost 164 million—live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans just agreed to vote on the nominations now pending on the Senate calendar. As many as 25 states are served by Federal courts with vacancies that would be filled by these nominations. Millions of Americans across the country are harmed by delays in overburdened courts. The Republican leadership should explain why they will not consent to vote on the qualified, consensus candidates nominated to fill these extended judicial vacancies.

I have heard some Senators excuse the delays and the extraordinary numbers of nominations left pending on the Senate calendar by claiming that our progress on nominations this year has been among the best in history. This is not true on its face, and ignores the Senate's failure to confirm judges in the first 2 years of the Obama administration, a practice which has led to historically high vacancies. The 56 circuit and district court nominations we have confirmed thus far this year is well behind the 68 we confirmed in the third year of President George W. Bush's first term. What makes the claim of progress even more misleading is that of the 56 nominations we confirmed this year, 17 could have and should have been confirmed when they were reported by the Judiciary Committee last year and instead took us until June of this year to consider. Even including these nominees on this year's total, the Senate's progress this year barely cracks the top 10 years for confirmed nominees in the last 35 years.

The truth is that the actions of the Senate Republican leadership in stalling judicial nominations during President Obama's first 2 years led to confirmation of few judges, leading to high vacancies. Republican leadership allowed the Senate to confirm only 47 circuit and district court nominations last year and set the modern record for fewest nominations confirmed with only 13 the year before—a total of 60 nominees confirmed in President Obama's first 2 years in office—leading to judicial vacancies that stood at 97 at the start of this year. In stark contrast, at the start of President Bush's third year, 2003, judicial vacancies stood at only 60 because the Senate had confirmed 72 of his circuit and district court nominations the year before and 28 in his first year in office, a total of 100 in the 17 months prior to 2003 with a Democratic majority.

The 100 circuit and district court nominations we confirmed in President Bush's first 2 years leading to a vacancy total of 60 at the beginning of his third year is almost a complete reverse of the 60 we confirmed in President Obama's first 2 years, leading to nearly 100 vacancies at the start of 2011. Yet, even following those years of real

progress, in 2003 we proceeded to confirm more judicial nominations—68—than there were vacancies at the start of that year and reduced vacancies even further. We worked to reduce vacancies on the circuit courts to single digits and throughout the Federal judiciary to fewer than 30.

The two nominees we consider today should have been confirmed 2 months ago. Sharon Gleason is nominated to fill a vacancy in the District Court for the District of Alaska. She is currently the Presiding Judge on the Superior Court for Alaska's Third Judicial District, where she has served for nearly a decade. Judge Gleason spent 17 years in private practice and clerked for Chief Justice Edmond Burke of the Alaska Supreme Court. The ABA's Standing Committee on the Federal Judiciary unanimously rated her "well qualified" to serve, its highest rating. Her home State Senators, Senator MURKOWSKI, a Republican, and Senator BEGICH, a Democrat, gave Judge Gleason their strong support when they introduced her to the Committee at a hearing in July. If confirmed, Judge Gleason will be the first woman to serve as a Federal district court judge in Alaska.

Judge Yvonne Gonzalez Rogers is nominated to serve as a United States District Judge for the Northern District of California. Since 2008, she has served as a judge for the Superior Court of California in Alameda County. Judge Gonzalez Rogers previously worked for 12 years as a litigator in private practice in the San Francisco office of Cooley LLP, and served for 2 years as a civil grand juror for Alameda County. Originally appointed to the Superior Court by Republican Governor Arnold Schwarzenegger in October 2008, Judge Gonzalez Rogers has the strong support of both of her home State Democratic Senators, Senators FEINSTEIN and BOXER.

I hope that the Senate can build on our progress today by considering the other 23 judicial nominations pending on the Senate calendar. With less than 5 weeks left before Senate adjournment for the year, the Senate needs to consider at least 5 judges every week in order to begin to catch up and erase the backlog that has developed from the delays in the consideration of consensus nominees caused by the Senate Republican leadership. We should not end another year with the Senate Republican leadership refusing to give final consideration to qualified judicial nominees and insisting on their nominations being returned to the President to begin the process all over again. Such delaying tactics are a disservice to the American people. The Senate should fulfill its constitutional duty and ensure the ability of our Federal courts to provide justice to Americans around the country.

EXHIBIT 1

[From the Wall Street Journal, Nov. 10, 2011]  
CRIMINAL CASE GLUT IMPEDES CIVIL SUITS  
(By Gary Fields and John R. Emshwiller)

An explosion of criminal prosecutions in the nation's overextended federal courts has

left civil litigants from bereaved spouses to corporate giants waiting years for their day in court.

The logjam, prompted particularly by criminal cases related to drugs and immigration, as well as by the proliferation of more-obscure federal criminal laws, threatens the functioning of the nation's judicial system, say some judges and attorneys.

"We need the resources to do both" civil and criminal law, says W. Royal Furgeson, a senior federal judge in Dallas. If decisions on contracts, mergers and intellectual-property rights "can't be reached through quick and prompt justice, things unravel for business."

In the Northern District of California, a widely watched intellectual-property fight between Google Inc. and Oracle Corp. has stalled to an indefinite halt. The two-year-old case, in which Oracle alleges that Google's Android smartphone software infringes its copyrights and patents, was scheduled to go to trial last month. Judge William Alsup postponed it "due to a lengthy criminal trial." In a written order, he said the trial would occur "in due course."

Oracle and Google declined to comment. Judge Alsup's clerk said he was too busy to comment.

Over the past three decades, the U.S. has steadily added to the federal rule book through new criminal statutes and regulations that carry criminal penalties. Combined with beefed-up enforcement, that has led to a 70% jump in the number of pending federal criminal cases in the past decade—to over 76,000, according to the Administrative Office of U.S. Courts.

Civil litigation, which accounts for over three quarters of federal court cases, is getting squeezed the most. In 2007, fewer than 7% of civil cases were more than three years old. By last year, that percentage more than doubled, with nearly 45,000 cases in a holding pattern.

While some of the case overload stems from mass litigation, such as damage claims from Hurricane Katrina in 2005, much of it traces back to the crowded criminal docket, say judges and other legal experts. The Constitution and the Speedy Trial Act of 1974 mandate criminal cases take precedence over civil cases.

Exacerbating the problem are vacancies on the federal bench. Despite the surge in case loads, the number of authorized federal judgeships has risen just 4% since 1990. Of the 677 district court judgeships currently authorized, about 9.5% are vacant.

Instead of waiting, many civil litigants are settling their disputes. That can be appropriate in many cases, but there is "no shortage of plaintiffs who wind up taking inadequate settlements" or businesses that make unnecessary payments to end the expense and uncertainty of litigation, says Ian Millhiser, a policy analyst at the Center for American Progress, a liberal think tank.

Elizabeth and Nicholas Powers were awaiting jury selection in their employment-discrimination suit against the University of Illinois when the federal judge assigned to the case earlier this year called a sudden halt to instead tackle a mounting series of criminal cases.

Their 2008 lawsuit, which named the Board of Trustees of the University of Illinois as defendant, alleged Ms. Powers received lower pay for her work than male employees. It also alleged Mr. Powers, who also worked for the university, was treated differently than the wives of male professors who worked at the school.

After the delay, the couple decided to settle for \$85,000 rather than wait for a new trial. An attorney for the University of Illinois declined comment on the settlement.

The judge in the case, Mike McCuskey, who is also the chief federal jurist for the central district of Illinois, said in an interview he has no choice but to push back civil cases because of his criminal caseload. In 1997, federal court statistics show, Judge McCuskey's district had 55 civil cases that were pending more than three years. Last year, it had 1,200.

"Civil litigation has ground to a halt," Judge McCuskey said, adding that "you've got a right to sue but you do not get a right to a speedy jury trial."

The Illinois jurist blames the glut of criminal cases on a shift in jurisdiction. Many cases that once would have been handled by state courts, including those dealing with drugs, weapons and child pornography, are now being filed federally. Congress has passed statutes that duplicate existing state laws but often carry heavier sentences, an added attraction to law-enforcement officials.

One of the nation's heaviest loads can be found in the federal courts of the eastern district of California, which covers an inland swath from north of Los Angeles to the Oregon border. Its per-judge caseload is 1,129 and getting worse with the September retirement of Judge Oliver Wanger. Because he won't be replaced, his cases will be divided among those who remain.

One of Judge Wanger's cases was a lawsuit involving hundreds of people from a neighborhood in Merced, Calif., stemming from a 2006 flood and subsequent concern about toxic chemical contamination from a nearby industrial site.

In 2007, current and former residents filed suit in federal court against municipal entities and the former owners of the industrial site seeking damages.

Judge Wanger divided the case into smaller trials, which would allow him to interperse those hearings with other ongoing cases. But only one of those civil trials has been held so far.

Mick Marderosian, the plaintiffs' attorney, said many of his 2,000 clients are waiting for a resolution of the case, now heading towards its fifth year. "We get calls every day from clients asking what is happening, what is causing the delay," he said.

Kathy Ramos said she and her husband, a truck driver, spent \$35,000 repairing their home after the flood. Her husband dropped plans to buy his own rig and the couple is still paying credit-card debts from the home-repair work. As for the lawsuit, "we would just like to have it over with," she said.

To get around the eastern district's problems, the suit has been transferred to a federal judge in Santa Ana, Calif.

For two and a half years, Amy Bullock has been waiting for her day in court seeking damages for the death of her husband in a 2006 truck accident. Her suit was filed in Denver federal court two years later against Daimler Trucks North America LLC, formerly Freightliner LLC.

It has been postponed twice, once in November 2010, about two weeks before the trial was supposed to start, and again this October to make way for a firearms case.

"It was devastating to hear it was postponed," says Ms. Bullock.

Daimler disputes the merits of Ms. Bullock's claim, which revolves around the truck's safety design and whether it had adequate safety restraints in its sleeper compartment. Its attorney, Peter Jones, a Denver lawyer, nonetheless agrees that the delays represent "a huge inconvenience to the clients and the witnesses who are involved on both sides."

The trial is now scheduled for March 2012. Said the 41-year-old Ms. Bullock: "I'm looking forward to having my day in court but, honestly, I feel like it may never happen."

## VERMONT'S REBUILDING

Mr. LEAHY. Mr. President, I want to talk for a few moments about the positive impact next year's Transportation-HUD appropriations bill is going to have on my home State of Vermont, particularly as we continue rebuilding from Hurricane Irene's destructive forces back in August.

I want to praise subcommittee chair PATTY MURRAY and ranking member SUSAN COLLINS. Their hard work and dedication ensures the final bill, filed last night, provides both appropriate funding for disaster relief accounts and also moves heavy truck traffic out of historic downtowns both in Vermont and in Maine.

As you and the others know, ever since Hurricane Irene, I have spoken over and over again on the floor of the Senate but also in meeting after meeting of the Appropriations Committee and probably in hundreds of hours in discussions with both Republican and Democratic Senators, especially on the Appropriations Committee, about the needs to Vermont.

Irene was devastating to our small State of Vermont. Both my wife and I were born in Vermont, and never in our lifetime have we seen anything like what we saw—record rains, and flash floods simply washed away homes, farms, businesses, roads, and bridges all over the State, including some that had been there for 100 years. Of all the body blows we suffered when Irene raked our State from border to border, repairing the damage to our roads and our bridges and our rail lines is one of our most urgent priorities, especially in a State in which we have already had substantial snowfalls.

The huge expense of mending our transportation network is well beyond the ability of a small State such as ours. When we tallied up the destruction, it became quickly very clear that Vermont is going to need more Federal help than the money that is now in the pipeline. In fact, we are not alone in that. The same can be said of other States ravaged by Irene.

With many Federal aid disaster programs underfunded, I am especially pleased that this bill contains \$1,662 million to replenish the Federal highway disaster relief fund. That is going to help Vermont and the other States that were so badly damaged rebuild vital roadways and bridges. Of course, these connections are crucial to distributing aid, rebuilding our economy, and serving as a lifeline to small communities, and, working with Governor Shumlin, Senator SANDERS, Congressman WELCH, and community leaders across Vermont, it became clear right away that, given the mammoth destruction of the storm, certain waivers are going to be needed to allow States to have these emergency funds without unnecessary burdens or delays. We have made adjustments to these caps in the past after major natural disasters such as Hurricanes Katrina and Andrew and tornadoes in the South.

I traveled around the State the day after Irene. It was hard to believe it was such a beautiful day. The Sun was shining. It looked like the nicest summer day you could imagine, except that as the Governor and I and General Dubie, the head of our National Guard, went by helicopter, we would go along and we would see a beautiful road, houses, farms, a river running along one side, everything peaceful, and we would go about a mile, and all of a sudden the river was on the wrong side of the road and hundreds of yards of road had disappeared, there were gaping holes 50-, 100-, 150-foot deep and businesses, houses, barns in the river, destroyed. These are places that have not changed for 100 years but did in this. I remember saying to the Governor: We will get the aid.

I was already getting e-mails from some of my colleagues—both Republicans and Democrats—here in the Senate saying that Vermont had always supported their States when they had disasters, and they would support us. But the Governor and I and everybody else realized that we had to have waivers in the final bill to do the things we needed. They are essential to ensuring that Vermont can promptly begin work on emergency and permanent repairs sooner rather than later. It is the middle of November, and they no longer make asphalt after about the middle of November. Severe winter weather is right around the corner. So it will make it nearly impossible to rebuild before March or April.

When I proposed the waivers in this bill, I can't tell you how much I appreciated the fact that Senators MURRAY and COLLINS supported that, as did Republicans and Democrats alike, on the appropriations bill. It may seem like a small thing, but to our little State, it is the difference between economic disaster and being able to rebuild, and I can't thank Senators enough for supporting me on these waivers.

The bill also includes another high priority for Vermont: moving heavy trucks off the State's secondary roads and onto our interstate highways. Overweight truck traffic in our villages and downtown poses a threat to the State's infrastructure, but it is also an unnecessary safety risk to both motorists and pedestrians.

The Leahy-Collins provision in this bill will end the steady parade of overweight trucks in Vermont and Maine from rumbling through our historic downtowns and small, narrow roads that come within a few feet of schools, houses, businesses, and town greens. It will help Vermont businesses and communities struggling even more right now because of the large number of State and local roads already heavily damaged during the recent flooding.

When we first met in the Appropriations Committee and I first raised the needs of Vermont, I have to admit that I got emotional in that appropriations meeting, as I did here on the floor. It is because I saw my fellow Vermonters,

some, people I have known literally all my life, who drew from their deep reservoirs of resiliency and resolve in the wake of Hurricane Irene; people helping people they don't even know but saying, "That is the way we do it in Vermont"; people moving even before FEMA or anybody else came to help with the disaster, moving to make sure that people who might need to get to a hospital, even if we had to carve a road through woods for them, it would be done. This is the Vermont way.

But I was moved to tears going through the State and seeing things that I remembered as a child that had always been there and I assumed would be there all my life destroyed in a matter of hours.

These storms are going to enter the history books alongside the horrific floods of 1927 in our State—something I remember my grandparents and parents talking about. I remember my grandparents and parents saying: We hope we never see something like this again. They didn't, but their son did, and I can't tell you how much it hurt.

But I cannot tell you how much it means to me that, again, Senators joined with me in saying: We will find the money Vermont needs. Back in 1927, the National Government helped our State recover, as it should, because, after all, we are the United States of America. The American people come together in times such as these, just as Vermonters have always been among the helping hands extended to other States at their time in need. So the progress this bill makes in helping Vermont and other States meet their urgent needs is a testament to the determination of many in this body. Again, Republicans and Democrats have been willing to set aside ideological differences and partisan tensions to accomplish the work the American people expect from their government.

When I first proposed this increase in disaster aid not only for Vermont but for every other State, when I first proposed these waivers, I hoped they would happen. None of us knew whether they would. I am pleased now to see a bill where they have. It came about because Senators from all over the country of both political parties worked together. You know, I wish we had more of that in Washington these days. I would like to think that maybe this is a wonderful step forward and we are all going to benefit from it.

Mr. President, I know we are shortly to vote on the judicial nominations. I would ask the Chair how much time remains before that vote.

The PRESIDING OFFICER. There is 13½ minutes remaining before the vote.

Mr. LEAHY. Mr. President, just to notify other Senators, I am shortly going to suggest the absence of a quorum. I will then ask us to come out of the quorum at noon, and unless I hear that somebody wishes to speak on either of the nominees, I will then move that time be yielded back. I will



not do that until 12:00. But I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I see nobody on either side who wishes to speak. I ask unanimous consent all time be yielded back on the two nominations.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LEAHY. Mr. President, have the yeas and nays been ordered on the nominations?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. Mr. President, when the first nomination is called up, I will ask for the yeas and nays.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Sharon L. Gleason, of Alaska, to be United States District Judge for the District of Alaska.

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant bill clerk called the roll.

Mr. REID. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON), the Senator from Utah (Mr. LEE), and the Senator from Idaho (Mr. RISCH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 8, as follows:

[Rollcall Vote No. 206 Ex.]

#### YEAS—87

Akaka	Coons	Landrieu
Alexander	Corker	Lautenberg
Ayotte	Cornyn	Leahy
Barrasso	Enzi	Levin
Baucus	Feinstein	Lieberman
Begich	Franken	Lugar
Bennet	Gillibrand	Manchin
Bingaman	Graham	McCain
Blumenthal	Grassley	McCaskill
Boozman	Hagan	Menendez
Boxer	Harkin	Merkley
Brown (MA)	Hatch	Mikulski
Brown (OH)	Heller	Moran
Burr	Hoeven	Murkowski
Cantwell	Hutchison	Murray
Cardin	Inouye	Nelson (NE)
Carper	Johanns	Nelson (FL)
Casey	Johnson (SD)	Portman
Chambliss	Johnson (WI)	Pryor
Coats	Kerry	Reed
Coburn	Kirk	Reid
Cochran	Klobuchar	Roberts
Collins	Kohl	Rockefeller
Conrad	Kyl	Sanders

Schumer	Stabenow	Udall (NM)
Sessions	Tester	Webb
Shaheen	Thune	Whitehouse
Shelby	Toomey	Wicker
Snowe	Udall (CO)	Wyden

#### NAYS—8

Blunt	Inhofe	Rubio
Crapo	McConnell	Vitter
DeMint	Paul	

#### NOT VOTING—5

Durbin	Lee	Warner
Isakson	Risch	

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Yvonne Gonzalez Rogers, of California, to be United States District Judge for the Northern District of California?

Mr. CORKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Illinois (Mr. DURBIN) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Georgia (Mr. ISAKSON), the Senator from Utah (Mr. LEE), and the Senator from Idaho (Mr. RISCH).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 6, as follows:

[Rollcall Vote No. 207 Ex.]

#### YEAS—89

Akaka	Franken	Merkley
Alexander	Gillibrand	Mikulski
Ayotte	Graham	Moran
Barrasso	Grassley	Murkowski
Baucus	Hagan	Murray
Begich	Harkin	Nelson (NE)
Bennet	Hatch	Nelson (FL)
Bingaman	Heller	Portman
Blumenthal	Hoeven	Pryor
Blunt	Hutchison	Reed
Boozman	Inouye	Reid
Boxer	Johanns	Roberts
Brown (MA)	Johnson (SD)	Rockefeller
Brown (OH)	Johnson (WI)	Rubio
Burr	Kerry	Sanders
Cantwell	Kirk	Schumer
Cardin	Klobuchar	Sessions
Carper	Kohl	Shaheen
Casey	Kyl	Snowe
Chambliss	Landrieu	Stabenow
Coats	Lautenberg	Tester
Coburn	Leahy	Thune
Cochran	Levin	Toomey
Collins	Lieberman	Udall (CO)
Conrad	Lugar	Udall (NM)
Coons	Manchin	Webb
Corker	McCain	Whitehouse
Cornyn	McCaskill	Wicker
Enzi	McConnell	Wyden
Feinstein	Menendez	

#### NAYS—6

Crapo	Inhofe	Shelby
DeMint	Paul	Vitter

#### NOT VOTING—5

Durbin	Lee	Warner
Isakson	Risch	

The nomination was confirmed.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

#### VOTE EXPLANATION

• Mr. DURBIN. Mr. President, on vote Nos. 206 and 207, the confirmations of Sharon Gleason to be United States District Judge for the District of Alaska, and Yvonne Gonzalez Rogers to be United States District Judge for the Northern District of California, I was unavoidably absent. Had I been present, I would have supported the nominations and voted yea on both. •

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. LEAHY. Of course.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table and the President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

The Senator from Vermont.

#### NOTIFYING THE PRESIDENT

Mr. LEAHY. I thank the Chair. After decades of doing this, I should have remembered, of course, we have to notify the President. I recall one day, when we went into the beginning of the session and swore in new Senators, one was the new Senator from New York, Hillary Clinton. The President of the United States was sitting in the gallery. When we convened as a Senate, the usual notice was said to notify the President that the Senate has convened for that session, at which point several of my colleagues rather honorably pointed out the President: You do not have to notify him. He is sitting right up in the gallery.

#### RECESS

Mr. LEAHY. With that, Mr. President, I ask unanimous consent that the Senate stand in recess until 3 p.m. today.

There being no objection, the Senate, at 12:50 p.m., recessed until 3 p.m. and reassembled when called to order by the Presiding Officer (Mr. UDALL of New Mexico).

Mr. MENENDEZ. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.